

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FOUR BATONS WIRELESS, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
and SAMSUNG ELECTIONICS AMERICA
INC.

Defendants.

§
§
§
§
§
§
§
§
§

Civil Action No. 2:24-cv-00284-JRG

JURY TRIAL DEMANDED

**PLAINTIFF’S SUPPLEMENTAL MEMORANDUM IN FURTHER OPPOSITION TO
SAMSUNG’S MOTION TO DISQUALIFY DR. MATTHEW SHOEMAKE**

Plaintiff Four Batons Wireless, LLC submits this Supplemental Memorandum in Further Opposition to Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.’s (collectively, “Samsung”) Motion to Disqualify Dr. Matthew Shoemake. Dkt. 45 (the “Motion”).¹

Samsung’s Motion seeks to disqualify Plaintiff’s technical expert, whom Samsung itself previously sought to retain for this case. Even though Samsung wanted to hire Dr. Shoemake for itself, Samsung contended in briefing that Dr. Shoemake’s expertise is *not* unique, and that Plaintiff would *not* be prejudiced by his disqualification. Since briefing closed and while this motion has been pending, Plaintiff has been unable to work with Dr. Shoemake. But in that time, Samsung has tried to capitalize on the situation: Plaintiff learned last week that, three and a half months after the close of briefing, Samsung *again* contacted Dr. Shoemake to hire him for this case.

¹ This Supplemental Memorandum is subject to Plaintiff’s contemporaneously filed Motion for Leave to Supplement the Record.

Samsung's Motion was meritless when filed, and its latest conduct further undermines its arguments made in the Motion.

1. Samsung sought to retain Dr. Shoemake in this case, and then moved to disqualify him after learning Plaintiff had already retained him.

Plaintiff retained Dr. Matthew B. Shoemake in connection with this litigation in November 2023. On August 2, 2024, Samsung's lead counsel contacted Dr. Shoemake by email asking to discuss a possible retention in connection with this litigation. *See* Dkt. 60-1 ¶ 9. On September 18, 2024, Plaintiff disclosed its retention of Dr. Matthew Shoemake to Samsung under the Protective Order. On November 8, 2024, Samsung moved this Court for an order disqualifying Dr. Shoemake on the basis of two prior unrelated engagements. Dkt. 45. Plaintiff opposed Samsung's Motion, showing in its opposition and sur-reply that disqualification was unjustified. Dkt. 49; Dkt. 56.

In asking the Court to prevent Plaintiff from working with Dr. Shoemake, Samsung argued that disqualification would not prejudice Plaintiff because, according to Samsung, "Plaintiff has identified no reason to believe that Dr. Shoemake has unique knowledge related to this case." Dkt. 58 at 12. Plaintiff responded, in its opposition, that "Dr. Shoemake is a highly qualified expert on Wi-Fi technology," as confirmed not only by his credentials and experience but also by the fact that "*Samsung itself tried to retain Dr. Shoemake for this very lawsuit.*" Dkt. 60 at 14 (emphasis in original). With its opposition, Plaintiff submitted a declaration from Dr. Shoemake stating that "[o]n August 2, 2024, Samsung's lead counsel, Patrick Reidy, contacted me by email asking to discuss an engagement in this case." Dkt. 60-1 ¶ 9. In its reply, Samsung maintained that "Dr. Shoemake's technical expertise is not unique, as Samsung has been able to retain four other qualified technical experts." Dkt. 59 at 5.

In the five months since Samsung filed its Motion, Plaintiff has been unable to work with Dr. Shoemake to prepare its case.

2. In April 2025, Samsung again sought to retain Dr. Shoemake in this case.

On April 22, 2025, three and a half months after the close of briefing on the Motion, Samsung’s outside counsel in this litigation contacted Dr. Shoemake for a second time, seeking to retain him in this case on Samsung’s behalf.² Samsung’s counsel told Dr. Shoemake that it was “reaching out because [they] are looking for a technical expert to assist with the infringement and validity case involving the ’671 patent.” Ex. A at 1. The ’671 Patent is one of the four patents-in-suit. Counsel asked: “Would you have some time this week to discuss the case and whether it would be a good fit? In the meantime, could you let us know if you have ever testified in federal court? Please let me know if you have any questions.” *Id.*

In light of this repeated outreach, Samsung cannot seriously maintain that Dr. Shoemake’s expertise is not unique or that Plaintiff would not be prejudiced by Dr. Shoemake’s disqualification. If Samsung were right that “Dr. Shoemake has [no] unique knowledge related to this case,” Dkt. 58 at 12, and that his “technical expertise *is not unique*,” Dkt. 59 at 5 (emphasis added), then Samsung would not have tried to retain him for this case on *two* separate occasions.

Samsung’s outreach to Dr. Shoemake—not once, but twice—reinforces that Dr. Shoemake is a uniquely qualified expert on the wireless technology involved in this case. It is now clearer than ever that Plaintiff would be highly prejudiced by Dr. Shoemake’s disqualification. Samsung’s Motion to Disqualify Dr. Shoemake should be denied on this basis, in addition to the reasons given in Plaintiff’s previously filed opposition and sur-reply.

² A true and correct copy of this email from Samsung’s counsel is attached as Exhibit A to the Second Supplemental Declaration of Dr. Matthew B. Shoemake.

Dated April 29, 2025

Respectfully submitted,

/s/ Meng Xi w/ permission Allen J. Hernandez

Meng Xi – *LEAD ATTORNEY*

Texas State Bar No. 24132850

mxi@susmangodfrey.com

Joseph S. Grinstein

Texas State Bar No. 24002188

jgrinstein@susmangodfrey.com

Shawn Blackburn

Texas State Bar No. 24089989

sblackburn@susmangodfrey.com

Allen J. Hernandez

Texas State Bar No. 24132804

ahernandez@susmangodfrey.com

Corey M. Lipschutz

Texas State Bar No. 24099303

clipschutz@susmangodfrey.com

SUSMAN GODFREY L.L.P.

1000 Louisiana Street, Suite 5100

Houston, TX 77002

Telephone: (713) 651-9366

Facsimile: (713) 654-6666

Rohit Nath

California State Bar No. 316062

rnath@susmangodfrey.com

SUSMAN GODFREY L.L.P.

1900 Avenue of the Stars, Suite 1400

Los Angeles, CA 90067

Telephone: (310) 789-3100

Facsimile: (310) 789-3150

Andrea L. Fair

Texas State Bar No. 24078488

andrea@millerfairhenry.com

MILLER FAIR HENRY PLLC

1507 Bill Owens Parkway

Longview, TX 75604

Telephone: (903) 757-6400

Facsimile: (903) 757-2323

Attorneys for Plaintiff

Four Batons Wireless, LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2025, the foregoing document was served on all counsel of record via the Court's electronic filing system.

/s/ Allen J. Hernandez
Allen J. Hernandez